



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: PERSSON et al.

Serial No.: 10/065,619

Confirmation No.: 4211

Filed: 11/04/2002

For: DEVICE AND METHOD FOR DETERMINING A  
HIGHEST ALLOWED VELOCITY OF A  
VEHICLE

Group Art Unit: 3661

Examiner: CAMBY, R.

Atty. Dkt. No.: 00173.0018.PCUS00

7  
Response  
Bates  
10/10

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I hereby certify that this correspondence and any attachments referred to herein are being hand delivered to the United States Patent and Trademark Office, Arlington, Virginia 22202 on 22 September 2003.

Daniel Hernandez

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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RESPONSE TO NON-FINAL OFFICE ACTION

INTRODUCTORY COMMENTS:

The following is in response to the Non-Final Office Action mailed March 20, 2003.

**IN RESPONSE TO THE OFFICE ACTION:**

**REJECTION UNDER 35 U.S.C. § 102:**

Claims 1-11 have been rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Rath. In response, Applicant requests that the Examiner reconsider and withdraw the rejection in view of the following:

For there to be anticipation under 35 U.S.C. §102, "each and every element" of the claimed invention must be found either expressly or inherently described in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) and references cited therein. See also *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 1571, 230 USPQ 81, 84 (Fed. Cir. 1986) ("absence from the reference of any claimed element negates anticipation."); *In re Schreiber*, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997). As pointed out by the court, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). An anticipating reference must describe the patented subject matter with sufficient clarity and detail to establish that the subject matter existed and that its existence was recognized by persons of ordinary skill in the field of the invention. *ATD Crop. V. Lydall, Inc.*, 159 F.3d 534, 545, 48 USPQ 2d 1321, 1328 (Fed. Cir. 1998). See also *In re Spada*, 911 F.2d 705, 708, 15 USPQ 2d 1655, 1657 (Fed. Cir. 1990).

There are three structural elements required in independent claim 1 and three corresponding functional elements required in independent claim 7; it is respectfully asserted that in neither instance are all of the limitations of the particular claim disclosed according to the legal definition outlined immediately above with respect to Section 102.



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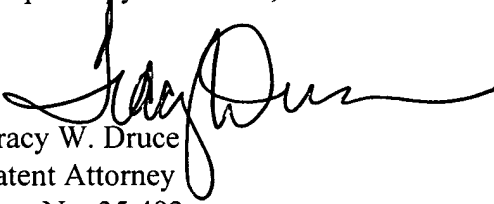
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The undersigned representative requests any extension of time that may be deemed necessary to further the prosecution of this application.

The undersigned representative authorizes the Commissioner to charge any additional fees under 37 C.F.R. 1.16 or 1.17 that may be required, or credit any overpayment, to Deposit Account No. 08-3038, referencing Order No. 00173.0018.PCUS00.

In order to facilitate the resolution of any issues or questions presented by this paper, the Examiner should directly contact the undersigned by phone to further the discussion.

Respectfully submitted,

  
Tracy W. Druce  
Patent Attorney  
Reg. No. 35,493  
Tel. 202.383.7398

Date: 22 Sept'03



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PTO/SB/21 (08-00)

Approved for use through 10/31/2002. OMB 0651-0031

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>	<b>Application Number</b>	10/065,619	
	<b>Filing Date</b>	11/04/2002	
	<b>First Named Inventor</b>	PERSSON	
	<b>Group Art Unit</b>	2857	
	<b>Examiner Name</b>	CAMBY	
<b>Total Number of Pages in This Submission</b>		<b>Attorney Docket Number</b>	00173.0018.PCUS00

ENCLOSURES (check all that apply)		
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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	HOWREY SIMON ARNOLD & WHITE, LLP Tracy W. Druce
Date	09/22/2003

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